IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

CRP.No. 2413 of 2002()

IA.NO.1971/2002 IN AS.145/1999 of I ADDL. DISTRICT COURT, PALAKKAD.

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REVN. PETITIONER: RESPONDENT:

V.K. RAMAN, S/O. K. VELAN,
AGED 43 YEARS, RESIDING AT KALATHINGAL VEEDU,
MANNUR AMSOM AND DESOM, PALAKKAD TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.K.RAMESH

RESPONDENTS: PETITIONER:

VENUGOPALAN, S/O. LATE K. GOPALAN NAIR,
AGED 41 YEARS, RESIDING AT KOTTAPPADATHU VEEDU,
NAGARIPURAM AMSOM AND DESOM,
PALAKKAD TALUK, PALAKKAD DISTRICT.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R.RAMAN,J.

C.R.P.NO.2413 OF 2002

Dated this the 14th day of February, 2007

O R D E R

Petitioner is the respondent in I.A.No.1971/2002 in A.S.No.145/99. The said I.A. was filed by the respondent herein seeking extension of time for payment of deficit court fee in the appeal. Though the petitioner contended that the court below has no power to extend the time for payment of court fee, the same was rejected. After elaborate consideration of the question, the court below placed reliance on the decisions of the Division Bench of this Court in **Elizabeth v. Francis (1991 (2) KLT 779 and Elizabeth and another v. Francis Edwin and others (AIR 1992 Kerala 108)** to hold that there is a discretionary power vested in court to enlarge the time beyond the period of 30

days mentioned in the 3rd proviso to Section 52 of the Court Fees Act, which power however has to be exercised judicially on sound and legal reasons. In view of the decisions of this Court, there cannot be any doubt that the court below has power to enlarge the time for payment of the court fee. However, it has to be exercised in a judicial manner. In this case the court below found that the non-payment of the court fee within the time is due to an inadvertent mistake and it satisfied that the enlargement of time ought to be granted to meet the ends of justice. In such circumstances, there is no jurisdictional error warranting interference under Section 115 of the Code of Civil Procedure.

C.R.P. is dismissed.

P.R.RAMAN,
Judge.

kcv.

P.R.RAMAN, J.

C.R.P.NO.2413 OF 2002

O R D E R

14th February, 2007